

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1020

In re: ADIB EDDIE RAMEZ MAKDESSI,

Petitioner.

On Petition for Writ of Mandamus. (7:13-cv-00079-GEC-PMS;
7:15-cv-00130-GEC-PMS)

Submitted: May 31, 2016

Decided: June 2, 2016

Before GREGORY, AGEE, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Adib Eddie Ramez Makdessi, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Adib Eddie Ramez Makdessi petitions for a writ of mandamus seeking, among other potential forms of relief, an order directing that he be transferred from Red Onion State Prison on account of the abusive and retaliatory actions of prison officials. We conclude that Makdessi is not entitled to mandamus relief.

Mandamus is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. U.S. Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988).

Makdessi challenged the conduct underlying the instant petition—and sought a transfer from Red Onion State Prison—in a 42 U.S.C. § 1983 (2012) action brought in the United States District Court for the Western District of Virginia. See Makdessi v. Clarke, No. 7:15-cv-00130-GEC-PMS (W.D. Va.). After a three-day evidentiary hearing, the magistrate judge recommended rejecting Makdessi's claims, and the district court subsequently adopted this recommendation. Makdessi did not file a notice of appeal from the district court's dispositive order, which was entered on March 21, 2016. Mandamus may not be used

as a substitute for appeal, In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007), and the instant petition raises issues that could have been—but were not—pursued in an appeal from the district court’s order. Accordingly, we deny the petition for a writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED